

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

ELIZABETH T.,

Claimant,

vs.

SOUTH CENTRAL LOS ANGELES  
REGIONAL CENTER,

Service Agency.

OAH No. 2011061503

**DECISION**

Nancy Beezy Micon, Administrative Law Judge (ALJ) with the Office of Administrative Hearings, heard this matter on August 18, 2011, in Los Angeles, California.

Claimant Elizabeth T.<sup>1</sup> was represented by her sister, who is her authorized representative. Claimant was not present at the hearing.

Johanna Arias-Bhatia, Fair Hearing Manager, represented the South Central Los Angeles Regional Center (SCLARC, Regional Center, or Service Agency).

Oral and documentary evidence was received, and the matter was submitted for decision at the conclusion of the hearing on August 18, 2011.

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<sup>1</sup> First name and first initial of last name are used to identify Claimant and her sister in order to protect Claimant's privacy.

## ISSUE

Whether the Service Agency may terminate funding for claimant's independent living skills (ILS) services.

## EVIDENCE RELIED UPON

*Documents:* Service Agency's exhibits 1-6.

*Testimony:* Guillermo Medina, claimant's former SCLARC service coordinator; Adrian Diaz, claimant's current SCLARC service coordinator; Saul Lopez, SCLARC program manager; Eloisa T., claimant's sister.

## FACTUAL FINDINGS

1. Claimant is a 34-year-old woman, who is a consumer of Regional Center services based on her qualifying diagnosis of mental retardation. Claimant lives at home with her mother and a sister; she also has other siblings who do not live at home. Claimant performs personal care tasks, without reminders, grooms and dresses herself, without assistance, toilets independently, and can focus on a preferred activity for more than 30 minutes. She can perform some household chores, with direction. Claimant does not require supervision to prevent injury or harm. However, she has a tendency of being friendly with strangers, giving them too much personal information.

2. During claimant's individual program plan (IPP) meeting on October 12, 2010, service coordinator Guillermo Medina suggested that claimant receive independent living skills (ILS) training. Medina explained to claimant's mother that ILS services were "time limited" services; they would be funded for 15 hours per month for six months. Claimant's mother contacted Medina a few months after the IPP meeting to express her agreement with Medina's suggestion that claimant receive ILS services. The Service Agency thereafter funded 15 hours per month of ILS instruction provided by Buena Vida Learning Services (BVLS).

3. Claimant also receives Service Agency funding for a supported employment program at Association for Retarded Citizens (ARC) of Southeast Los Angeles and for transportation to and from the program.

4. At the time of the hearing, claimant had recently undergone a surgery. Claimant currently requires bed rest to recuperate from the surgery.

5. Adrian Diaz has served as claimant's service coordinator at SCLARC since April 2011, when he began working for SCLARC. When Diaz became the service coordinator, claimant's case was reviewed during a meeting with Diaz's program manager. It was determined that ILS services would end because, according to Diaz, there was a six month time limit on the services. Diaz did not speak with BVLS, the SCLARC vendor who provided the ILS services to claimant, before the decision was reached to terminate the ILS services. In addition, no assessment was completed by BVLS concerning claimant's progress in the ILS program. According to Diaz, the decision to stop funding the program was based solely on the six-month time period.

6. SCLARC recently updated its "funding standards" for independent living training programs. The SCLARC policy states in pertinent part:

Independent Living Skills (ILS) training is defined as a program that provides adults functional skills training necessary to secure a self-sustaining, independent living situation in the community and/or provide the support necessary to maintain those skills.

...

Persons may receive up to 15 hours per month of ILS for the first 6 months. The need for additional time will be reassessed at that time. Some individuals may require additional training in independent living skills to enable them to move to, or maintain a more independent living arrangement. In those circumstances the volume of service will be determined by the Interdisciplinary Team.

...

Such programs shall provide instruction which includes, but is not limited to: cooking, cleaning, shopping, menu planning, meal preparation, money management, use of public transportation, task completion, homemaking skills, self-reliant behaviors, sex education, family and parenting skills as well as community resource awareness (e.g., police, fire, or emergency help).

...

The number of hours authorized will be determined by the specific independent living skills required by the consumer to be self-sustaining, as reflected on the IPP and by the time required to teach the specific skills. Skills training purchased by SCLARC will be time-limited (not to exceed two years at 30

hours per month maximum per consumer) and shall focus on specific objectives related to independent living.

(Ex. 6.)

7. Saul Lopez, a SCLARC program manager, has been involved with implementing the regional center policy on ILS funding. Lopez explained that initial funding for an ILS program is for six months. At the end of six months, there should be a progress report from the vendor. At that point, a discussion should take place between the service coordinator, the vendor, the program manager, and the claimant's parent about the goal of having the consumer live independently and the progress being made towards that goal. Six months is the benchmark for reviewing progress. Lopez testified that ILS is intended to train consumers in skills that will allow them to live independently; once a consumer is living independently, he or she may receive funding for supported living services (SLS). According to Lopez, ILS is a transitional service and is not designed to continue indefinitely. Lopez acknowledges that, in this case, it does not appear that progress was discussed after six months, with the vendor, or with claimant's parent.

8. Claimant's sister Eloisa T. testified concerning her perception of claimant's independent living skills, and about claimant's current living arrangement. Claimant lives with her mother in a home owned by claimant's mother. Another sister also lives in the mother's home. The home has four bedrooms: one bedroom is used as an office; the other bedrooms are occupied by claimant's mother, claimant, and claimant's sister (not Eloisa T.). Claimant's mother works part-time. Claimant is in the home by herself when claimant returns from the ARC program. According to Eloisa T., claimant needs independent living skills to function by herself in the home. Eloisa T. confirmed that claimant can toilet and shower on her own. Claimant can do chores, but not appropriately. Claimant is capable, for example, of cleaning her bathroom but needs to be walked through the process in order to perform the cleaning appropriately. Also, although claimant can make a sandwich, there is concern about having claimant use the stove. Claimant also needs assistance in learning how to use public transportation on her own. Claimant goes shopping for clothes with her sister and mother. She can choose an item but does not yet understand that the item needs to be in claimant's size. According to Eloisa T., claimant knows how to pay for items but she does not understand the concept of giving change. Eloisa T. described claimant as being "clueless" about money management. There is also concern about claimant's overly friendly interactions with strangers, and with her understandings concerning personal relationships. Eloisa T. noted that claimant's mother plans to move out sometime in the future, and to have claimant and her sister remain in the family home.<sup>2</sup>

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<sup>2</sup> It was unclear from the evidence when claimant's mother plans to move out of her home. Eloisa T. estimated that claimant's mother plans to move out in two or three years.

9. By a notice of proposed action (NOPA) letter dated June 8, 2011, the Service Agency notified claimant's mother that it would terminate funding the 15 hours per month of ILS service through BVLS, effective in 30 days. The letter states that claimant is no longer eligible for ILS services because:

I.L.S. training purchased by SCLARC is time-limited (not to exceed six months at 15 hours per month maximum per consumer) for the purpose of focusing on specific objectives related to independent living. During this time [claimant] has not progressed toward the goal of living independently and has decided that she has no plans to live independently therefore making her ineligible for ILS. Therefore, she has not [*sic*] need for ILS at this time.

The purpose of the I.L.S. is to enable consumer to live independently or semi-independently. The service was authorized for [claimant] to enable her to improve her independent living skills. . . . [Claimant] resides with her family and she is not considering the possibility of living independently away from her family any time in the near future. Consumer has received the I.L.S. [t]raining for six months. She no longer meets the requirements for the service. Therefore, SCLARC will terminate funding the I.L.S. through Buena Vida Learning Services within thirty days from today's date.

(Ex. 1.) The letter suggests that claimant's parents apply for In Home Supportive Services (IHSS) and other generic resources to meet claimant's needs while claimant resides at home, citing Welfare and Institutions Code section 4659, subdivision (c),<sup>3</sup> for the proposition that regional centers may not purchase any service that is otherwise available from IHSS.

10. The information contained in the NOPA was not consistent with the testimony and evidence presented at hearing. The initial statement in the NOPA that ILS services may not "exceed six months at 15 hours per month maximum per consumer" is inconsistent with the SCLARC policy which states that "[t]he number of hours authorized will be determined by the specific independent living skills required by the consumer to be self-sustaining" . . . and that ILS services could be provided for up to "two years at 30 hours per month maximum per consumer." The NOPA states that claimant "is not considering the possibility of living independently away from her family." Although claimant does not plan to move away from the family home, the facts in this case indicate that plans are being made for claimant to live independently in the family home. Claimant's mother plans to move out of the home in the future and there are currently times when claimant is required to stay alone

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<sup>3</sup> All further statutory references are to the Welfare and Institutions Code, unless otherwise stated.

in the home. Claimant needs to acquire independent living skills to work toward the planned goal of living independently in the family home.

11. On June 27, 2011, claimant's sister Eloisa T. submitted to SCLARC a Fair Hearing Request, on claimant's behalf, appealing the termination of ILS.

## LEGAL CONCLUSIONS

1. The Lanterman Act governs this case. (§ 4500 et seq.) An administrative "fair hearing" to determine the rights and obligations of the parties is available under the Lanterman Act. (§§ 4700-4716.) Claimant requested a fair hearing to appeal the Service Agency's decision to terminate funding for ILS. Jurisdiction in this case was thus established. (Factual Findings 1-10.)

2. The party asserting a claim generally has the burden of proof in administrative proceedings. (See, e.g., *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 789, fn. 9.) In this case, the Service Agency bears the burden of proving, by a preponderance of the evidence, that it is entitled to terminate funding for claimant's ILS services. (Evid. Code, § 115.)

3. The Lanterman Act is a comprehensive statutory scheme to provide "[a]n array of services and supports . . . which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community." (§ 4501.) The services and supports should "enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age." (*Id.*)

4. The services and supports to be provided to a consumer are determined in the IPP process on the basis of the needs and preferences of the consumer and a consideration of a range of service options proposed by the IPP participants, the effectiveness of each option in meeting the goals stated in the IPP, and the cost-effectiveness of each option. (§ 4512, subd. (b).)

5. The Service Agency did not establish by a preponderance of the evidence that it is entitled to terminate funding for claimant's ILS services. SCLARC admits that no assessment was conducted and that its decision to terminate funding was based solely on the expiration of the six months. This was not consistent with SCLARC policy and was also counter to basic Regional Center service tenets, which require services to correlate to needs and for the determination of appropriate services to be based on individual circumstances. Here, claimant plans to live independently within the next two to three years. She needs to learn skills to assist her in making this transition, including, but not limited to, money management skills, cooking and cleaning skills, and skills in dealing with strangers and

personal relationships. An assessment is required to report on claimant's progress in working toward these goals, and an IPP meeting needs to take place to discuss the implementation of the goals. The evidence supports the conclusion that ILS services need to continue in this case. (Factual Findings 1-10.)

### ORDER

Claimant's appeal is granted. SCLARC must continue to fund claimant's ILS services.

DATED: September 7, 2011

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Nancy Beezy Micon  
Administrative Law Judge  
Office of Administrative Hearings

### NOTICE

**This is the final administrative decision; both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within 90 days.**